

Premium Standard Farms, Inc. and Continental Grain Company, Inc. Civil Settlement

Fact Sheet
November 19, 2001

Overview: Today the U.S. Environmental Protection Agency and the Justice Department announced a civil settlement with the nation's second largest pork producer, Premium Standard Farms, Inc. (PSF), and Continental Grain Company, Inc. (Continental). The settlement with the United States and the Citizen's Legal Environmental Action Network (CLEAN) resolves alleged violations of the Clean Water Act (CWA), the Emergency Planning and Community Right to Know Act (EPCRA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and the Clean Air Act (CAA) that occurred at a number of the companies' factory farms in northwest Missouri.

Significant human health and environmental risks are generally associated with large-scale Concentrated Animal Feeding Operations (CAFOs). Improper handling of manure from feedlots, lagoons and improper land application can result in excessive nutrients (nitrogen and phosphorus); pathogens (i.e., fecal coliform); and other pollutants in the water. This pollution can kill fish, cause excessive algae growth, and contaminate drinking water. In addition, emissions of air pollutants from very large CAFOs may result in significant health effects for nearby residents

Settlement Highlights: This settlement is significant because it commits PSF and Continental to test wastewater treatment systems that have never been used for CAFOs. Under the consent decree, the companies are required to develop and implement technologies that will reduce the nitrogen concentration of all wastewater that is land applied by at least 50 percent. The nutrient reduction requirement ensures that the companies' application of waste will not be over-applied on the land available and likely will reduce the amount of land necessary for waste application. Additionally, any waste treatment technology implemented must substantially eliminate air emissions from the treatment system.

The United States' settlement builds on a Consent Judgment negotiated by the State of Missouri, PSF and Continental in 1999, that requires defendants to spend up to \$25 million to develop "next generation technology." The United States' agreement complements this effort by requiring defendants to reduce pollutants by a certain minimum percentage. Moreover, the federal settlement will provide the comprehensive data on air emissions from a large-scale swine CAFOs to assess the public health and environmental impacts of such air pollution issues in the future.

Settlement Terms:

Civil Penalty: \$350,000 is to be paid to the United States; PSF and Continental paid \$650,000 to the State of Missouri under a State Consent Judgment entered on July 29, 1999.

Injunctive Relief: \$50 million (estimated value) and includes the following:

- Testing of a minimum of three wastewater treatment technologies:
 1. Nitrification/denitrification system;
 2. Process to convert the waste into a dry, pelletized fertilizer product; and
 3. Process that converts the waste into fuel.

- Installation of wastewater treatment technology at all Class 1A farms (all finishing farms and the larger sow farms) that will:
 1. Reduce the nitrogen content of the wastewater by at least 50 percent;
 2. Reduce ammonia and hydrogen sulfide from the anaerobic lagoons; and
 3. Substantially eliminate ammonia and hydrogen sulfide emissions from the wastewater treatment system and irrigated fields.
- Implementation of best management practices to reduce the risk and impact of spills into waters of the United States and onto neighboring properties.
- Testing of the integrity of 22 existing anaerobic lagoons to ensure that no leakage exceeds state seepage standards. This testing must be completed before the companies may incorporate the lagoons in any new wastewater treatment system.
- Monitoring of air emissions of particulate matter, volatile organic compounds, hydrogen sulfide, and ammonia from representative barns and anaerobic lagoons. The monitoring will be conducted before and after installation of each control technology being tested by the companies. If the monitoring levels exceed CAA thresholds for any regulated pollutant, the companies are required to apply to the State of Missouri for any necessary Clean Air Act permits.

Supplemental Environmental Project: Under the settlement, PSF and CGI have agreed to test and install an oil sprinkling system intended to control particulate matter emissions and odor from barns. The project requires the installation of a pilot system at one of the companies' barns for a minimum of two years. If the system is successful in emissions reduction, the companies are required to implement the system at additional barns up to a total expenditure of \$400,000. If, following the pilot system, the companies believe an alternate supplemental environmental project would achieve better environmental results or equivalent environmental results at a lesser cost of emissions from the barns, they may propose an alternate project.

Violations: The United States is alleging the following violations by PSF and Continental at their facilities in northern Missouri:

CWA Section 301

- Unpermitted discharges to waters of the United States, some resulting in fish kills
- Failure to report discharges of animal waste
- Failure to properly operate and maintain facilities
- Failure to properly operate land application equipment to avoid animal waste reaching adjoining property lines
- Failure to detect and correct malfunctions in operation of land application equipment before over application of animal waste occurred.
- Over-application of animal waste at its land application areas
- Failure to maintain proper lagoon levels
- Failure to install or maintain required containment structures below its barn/lagoon complexes
- Overstocking of hogs in violation of NPDES permit
- Discharges of pollutants from Milan meat processing plant (PSF only)

____ **CAA Section 110**

- Failure to obtain minor CAA New Source Review (NSR) preconstruction permits
- Failure to submit Emission Inventory Questionnaires

EPCRA Section 304/CERCLA Section 103

- Failure to report releases of a hazardous substance
- Failure to report releases of an extremely hazardous substance

About PSF AND Continental: Premium Standard Farms, Inc. began operations in 1988 and has facilities in the northwest Missouri counties of Mercer, Putnam and Sullivan. In 1998, Continental Grain Company, now ContiGroup Companies (CGC), bought a controlling interest in PSF. CGC has been involved in pork production since 1985 and owns farms in Daviess, Gentry, Worth and Grundy counties.

- PSF is permitted to confine more than 900,000 hogs at its CAFOs in northern Missouri and produces two million hogs annually.
- PSF's stores and applies more than 750 million gallons of animal waste annually on more than 83,000 acres in northern Missouri.
- PSF's CAFOs, slaughterhouses and retailing pork operations are fully integrated.
- ContiGroup Company owns five CAFOs and at least one packing facility.

Legal History: In October 1999, the United States intervened in a private party CWA case, *Citizens Legal Environmental Action Network, Inc. v. Premium Standard Farms, Inc.*, an action granted by the United States District Court for the Western District of Missouri. CLEAN sought to prevent unlawful discharges of animal wastes from PSF's CAFOs in northern Missouri. Last year, the United States' lawsuit was amended to allege additional violations of the CWA.

The proposed consent decree amends the federal government's pleadings to add alleged EPCRA and CERCLA violations by Continental; to add alleged CAA violations by PSF and Continental; and to add alleged CWA violations by Continental.

Prepared by the Office of Enforcement and Compliance Assurance
Contact: Virginia Bueno, (202) 564-8684 and Michele Merkel, (202) 564-8319